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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,271	04/25/2001	Melvyn C Bale	36-1441	7755
23117	7590	03/22/2006	EXAMINER	
NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			PATEL, ASHOKKUMAR B	
			ART UNIT	PAPER NUMBER
			2154	

DATE MAILED: 03/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/830,271	BALE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ashok B. Patel	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 22 December 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 1-17 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 18-38 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>12/22/05, 1/25/06, 2/24/2006</u>	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

1. Claims 1-38 are subject to examination. Claims 1-17 are cancelled.

### ***Response to Arguments***

2. Applicant's arguments with respect to claim 1-7 have been considered but are moot in view of the new ground(s) of rejection, however, Examiner would like to state the previous explanation of the invention provided by the Applicant as follows:

a. "In contrast, the applicant's claimed invention seeks to optimize the operation of the VMS /platform (especially its internal mail-box processing operations) by essentially preventing overload processing conditions. This is achieved by denying certain control signals access to the platform. This ensures that the VMS/platform is not overloaded as a result of the functionality those control signals would trigger if processed by the VMS/platform. The invention is thus quite different from Gallant. If the platform is not internally overloaded with processing mailbox control signals, as taught by the invention, the outgoing messages issued by the platform will also be limited." (page 13 of Remarks/Arguments) .

b. In contrast, according to the applicant's invention, when several users or the service provider send control signals to the VMS, denying access to some of the control messages will mitigate the load offered to the VMS." (page 14 of Remarks/Arguments).

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 30 and 31 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter where:

a. Claims are directed merely to a communication network including a messaging platform and a messaging platform and not tied to a technological art, environment, or machine which would result in a practical application producing a concrete, useful and tangible result. The claimed invention lacks patentable utility as no methodology and/or component functionality is provided as part of the claims.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 18-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Obhan (US 6, 366, 780 B1).

**Referring to claim 18,**

Obhan teaches a messaging platform including:

a message store arranged to receive message data and to store said message data for subsequent retrieval (col. 18, line 54-62, "At step 1214, it is determined whether the corridor supports delivery of the call. For example, if the corridor is loaded, it may support delivery of only premium subscriber calls. If the corridor does support delivery

for the class of the destination subscriber, the call is completed and serviced at step 1216. However, if the corridor does not support delivery to the subscriber, completion is denied and/or a voice message is taken at step 1218. From both steps 1216 and 1218, operation returns to step 1202.", Fig. 12, elements 1204 and 1218, Fig. 4, col. 9, line 4-21," FIG. 14 is a logic diagram illustrating operation according to the present invention in delivering time sensitive and time insensitive messages. Such messages may be for receipt by a human user. However, these messages may also be for receipt by a machine, without human intervention.");

a control interface arranged to allow the communication of control signals between the messaging platform and a service provider (col. 5, line 29-32, col. 19, line 4-21, "Where the subscriber unit does not know whether it has access to the system, the network infrastructure may simply block its attempted call if the subscriber unit does not have access to the system (as may be determined upon access of an ACB). Thus, in either case, the subscriber unit will not be able to originate a call if it does not have access to the system. In a variation of this scheme, the user may override his or her access limitations in certain situations. For example, if a low priority voice user of a particular subscriber class does not have access at the present time due to current subscriber loading, he or she may select to pay an additional fee to access the system. In another example, a user may have a particular number of high demand minutes included in his or her plan which may be used in such a situation. In still another example, a data user, such as an electronic billboard may override accessibility limitations to perform updates, with such access incurring an additional charge."); and

an overload controller provider on the control interface and responsive to an overload condition of the platform and arranged, in response to the said overload condition, to limit loading of the platform by signals arriving on said control interface. (Fig. 1, element 100, col. 4, line 65 through col. 5, line 36, "The spectrum yield management (SYM) system 100 includes a SYM analytical engine 102, system operator parameters 104 and a database 106, which together may be implemented by a separate computing device or a plurality of computing devices. These computing devices may be constructed as personal computers, server computers, mainframe computers or other forms of computing devices. In any case, the computing device(s) has sufficient computing capacity to perform the operations required by the present invention. The structure of computing devices is generally known in the art and will not be further described herein except as to expand upon the teachings of the present invention. The computing device may be tightly coupled with an MSC, BSC or other wireless network device or may be a part of the MSC, BSC or other wireless network device.

The SYM analytical engine 102 couples to the wireless network infrastructure 108 of a wireless communication system. In its operation, the SYM analytical engine 102 receives current demand data 118 and potential demand data 120 from the wireless network infrastructure 108 and delivers SYM operating signals 122 to the wireless network infrastructure 108. The current demand data 118 and potential demand data 120 indicate the current subscriber loading and the potential subscriber loading, respectively, within the wireless communication system.

The system operator parameters 104 include subscriber profiles 110 for a plurality of subscribers operating within the wireless communication system.”)

**Referring to claim 19,**

Obhan teaches a platform as in claim 18 wherein said control interface is arranged to receive control requests instructing transactions on the messaging platform (col. 19, line 4-21), and wherein said overload controller includes means for denying at least some of the control requests in response to the overload condition. (col. 18, line 54-62).

**Referring to claim 20,**

Obhan teaches a platform as in claim 18 further comprising:

an access controller arranged to receive data and control channels from one or more service providers and connected to said overload controller, wherein said overload controller limits loading of said platform by signals arriving on the control interface by functioning in combination with said access controller.(col. 5, line 50 through col. 6, line 4, col. 10, line 7-20).

**Referring to claim 21,**

Obhan teaches a platform as in claim 18 further comprising:

an access controller arranged to receive data and control channels form one or more service providers and connected to said overload controller.(col. 5, line 50 through col. 6, line 4, col. 10, line 7-20),, wherein said overload controller limits loading of said platform by signals arriving on the control interface by functioning in combination with said access controller (col. 6, line 5-15), wherein said overload controller functions in combination with said access controller to limit loading of said platform by signals

arriving on the control interface by configuring the access controller to deny access to the platform of certain predetermined signals (col. 6, line 5-15).

**Referring to claim 22,**

Obhan teaches a platform as in claim 18 wherein said service provider comprises an end user. (col. 6, line 5-15).

**Referring to claim 23,**

Obhan teaches a platform as in claim 18 wherein:

said control interface is arranged to receive control requests instructing transactions on the messaging platform (col. 19, line 4-21),

said overload controller includes means for denying at least some of the control requests in response to the overload condition (col. 18, line 54-62), and  
said overload controller detects the rate of transactions between the access controller and a plurality of said service providers (col. 6, line 5-15).

**Referring to claim 24,**

Obhan teaches a platform as in claim 18 in which the overload controller is programmed with criteria for applying different classes of service to control requests received at the control interface and the overload controller is arranged, in response to an overload condition on the platform, selectively to deny control requests depending on a class of service assigned in accordance with the said criteria to the control request (col. 3, line 24-44).

**Referring to claim 25,**

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Obhan teaches a platform as in claim 18 in which: the overload controller is programmed with criteria for applying different classes of service to control requests received at the control interface (Figs . 7A and 7B, col. 5, line 5-15)

the overload controller is arranged, in response to an overload condition on the platform, selectively to deny control requests depending on a class of service assigned in accordance with the said criteria to the control request, and the criteria apply a class of service selected depending on the identity of a service provider originating the said control requests. (col. 5, line 24-26).

**Referring to claim 26,**

Obhan teaches a platform as in claim 18 in which the overload controller is programmed with criteria for applying different classes of service to control requests received at the control interface and the overload controller is arranged, in response to an overload condition on the platform, selectively to deny control requests depending on a class of service assigned in accordance with the said criteria to the control request, and in which the criteria apply a class of service selected depending on the identity of a subscriber mailbox to which the control request applies. (col. 5, line 24-32, line 5-15, col. 19, line 49-52, col. 18, line 54-62)

**Referring to claim 27,**

Obhan teaches a platform as in claim 18 in which the overload controller is programmed with criteria for applying different classes of service to control requests received at the control interface and the overload controller is arranged, in response to an overload condition on the platform, selectively to deny control requests depending on a class of

service assigned in accordance with the said criteria to the control request, and in which the criteria apply different service classes depending on the transaction requested by the control request. (Figs . 7A and 7B, col. 5, line 5-15, line 24-26)

**Referring to claim 28,**

Obhan teaches a messaging system comprising:

a service platform running a messaging service application (Fig. 3, elements 328s, col. 5, line 30-32); and a messaging platform comprising: a message store arranged to receive message data and to store said message data for subsequent retrieval (col. 18, line 54-62," At step 1214, it is determined whether the corridor supports delivery of the call. For example, if the corridor is loaded, it may support delivery of only premium subscriber calls. If the corridor does support delivery for the class of the destination subscriber, the call is completed and serviced at step 1216. However, if the corridor does not support delivery to the subscriber, completion is denied and/or a voice message is taken at step 1218. From both steps 1216 and 1218, operation returns to step 1202.", Fig. 12, elements 1204 and 1218, Fig. 4, col. 9, line 4-21," FIG. 14 is a logic diagram illustrating operation according to the present invention in delivering time sensitive and time insensitive messages. Such messages may be for receipt by a human user. However, these messages may also be for receipt by a machine, without human intervention.");

a control interface arranged to allow the communication of control signals between the messaging platform and a service provider(col. 5, line 29-32, col. 19, line 4-21, "Where the subscriber unit does not know whether it has access to the system,

the network infrastructure may simply block its attempted call if the subscriber unit does not have access to the system (as may be determined upon access of an ACB). Thus, in either case, the subscriber unit will not be able to originate a call if it does not have access to the system. In a variation of this scheme, the user may override his or her access limitations in certain situations. For example, if a low priority voice user of a particular subscriber class does not have access at the present time due to current subscriber loading, he or she may select to pay an additional fee to access the system. In another example, a user may have a particular number of high demand minutes included in his or her plan which may be used in such a situation. In still another example, a data user, such as an electronic billboard may override accessibility limitations to perform updates, with such access incurring an additional charge."); and

an overload controller provided on the control interface and responsive to an overload condition of the platform and arranged, in response to the said overload condition, to limit loading of the platform by signals arriving on said control interface(Fig. 1, element 100, col. 4, line 65 through col. 5, line 36, "The spectrum yield management (SYM) system 100 includes a SYM analytical engine 102, system operator parameters 104 and a database 106, which together may be implemented by a separate computing device or a plurality of computing devices. These computing devices may be constructed as personal computers, server computers, mainframe computers or other forms of computing devices. In any case, the computing device(s) has sufficient computing capacity to perform the operations required by the present invention. The structure of computing devices is generally known in the art and will not be further

described herein except as to expand upon the teachings of the present invention. The computing device may be tightly coupled with an MSC, BSC or other wireless network device or may be a part of the MSC, BSC or other wireless network device.

The SYM analytical engine 102 couples to the wireless network infrastructure 108 of a wireless communication system. In its operation, the SYM analytical engine 102 receives current demand data 118 and potential demand data 120 from the wireless network infrastructure 108 and delivers SYM operating signals 122 to the wireless network infrastructure 108. The current demand data 118 and potential demand data 120 indicate the current subscriber loading and the potential subscriber loading, respectively, within the wireless communication system.

The system operator parameters 104 include subscriber profiles 110 for a plurality of subscribers operating within the wireless communication system.");

wherein said control interface is arranged to connect said messaging platform to the service platform (Fig. 3, elements 328s, col. 5, line 30-32), and said messaging platform is arranged to receive control requests from the service platform via said control interface. (col. 19, line 4-21)

**Referring to claim 29,**

Obhan teaches a messaging system as in claim 28 in which the service platform is remote from the messaging platform. (col. 19, line 4-21)

**Referring to claim 30,**

Claim 30 is a claim to a communications network including a messaging platform as in claim 18. Therefore claim 30 is rejected for the reasons set forth for claim 18.

**Referring to claim 31,**

Claim 31 is a claim to a communications network including a messaging system as in claim 28. Therefore claim 31 is rejected for the reasons set forth for claim 28.

**Referring to claim 32,**

Obhan teaches a method of operating a messaging platform, the messaging platform comprising a message store arranged to receive message data and to store said message data for subsequent retrieval, a control interface arranged to allow the communication of control signals between the messaging platform and a service provider; and an overload controller provided on the control interface and responsive to an overload condition of the platform and arranged, in response to the said overload condition, to limit loading of the platform by signals arriving on said control interface, the method comprising:

- a) storing message data on the messaging platform; b) subsequently outputting message data from the platform, thereby allowing retrieval of a corresponding message (col. 18, line 54-62, Fig. 12, elements 1204 and 1218, Fig. 4, col. 9, line 4-21);
- c) detecting an overload condition of the messaging platform; and, in response to the overload condition; and d) limiting loading of the messaging platform by signals arriving on the control interface. (Fig. 1, element 100, col. 4, line 65-col. 5, line 36).

**Referring to claim 33,**

Obhan teaches a method as in claim 32 further comprising:

- e) receiving via the control interface of the message platform control requests instructing a transaction on the messaging platform (col. 19, line 4-21), wherein the step

of limiting loading of the platform includes denying at least some of the control requests received via the control interface access to the platform (col. 18, line 54-62).

**Referring to claim 34,**

Obhan teaches a method as in claim 32 further comprising:

receiving via the control interface of the message platform control requests instructing a transaction on the messaging platform (col. 19, line 4-21), wherein the step of limiting loading of the platform includes denying at least some of the control requests received via the control interface access to the platform (col. 18, line 54-62).

applying different classes of service to the control requests (Figs. 7A and 7B, col. 5, line 5-15); and,

in response to the overload condition, selectively denying some only of the control requests depending on the class of service applied to the control requests.(col. 5, line 24-26).

**Referring to claim 35,**

Obhan teaches a method as in claim 32 further comprising:

receiving via the control interface of the message platform control requests instructing a transaction on the messaging platform (col. 19, line 4-21), wherein the step of limiting loading of the platform includes denying at least some of the control requests received via the control interface access to the platform (col. 18, line 54-62).

applying different classes of service to the control requests; and, in response to the overload condition; selectively denying some only of the control requests depending

on the class of service applied to the control requests(Figs. 7A and 7B, col. 5, line 5-15);  
and

applying different classes of service to control requests depending on the identity  
of an originating service provider.(col. 5, line 24-32).

**Referring to claim 36,**

Obhan teaches a method as in claim 32 further comprising: receiving via the  
control interface of the message platform control requests instructing a transaction on  
the messaging platform (col. 19, line 4-21), wherein the step of limiting loading of the  
platform includes denying at least some of the control requests received via the control  
interface access to the platform (col. 18, line 54-62).

applying different classes of service to the control requests (Figs. 7A and 7B, col.  
5, line 5-15); and,

in response to the overload condition, selectively denying some only of the control  
requests depending on the class of service applied to the control requests.(col. 5, line  
24-26).

applying different classes of service to control requests depending on identities of  
customer mailboxes to which the control requests apply. (Figs. 7A and 7B, col. 5, line  
29-32, col. 19, line 4-21, col. 18, line 54-62, col. 9, line 4-21).

**Referring to claim 37,**

Obhan teaches a method as in claim 32 further comprising:

Obhan teaches a method as in claim 32 further comprising: receiving via the control interface of the message platform control requests instructing a transaction on the messaging platform (col. 19, line 4-21), wherein the step of limiting loading of the platform includes denying at least some of the control requests received via the control interface access to the platform (col. 18, line 54-62).

applying different classes of service to the control requests (Figs. 7A and 7B, col. 5, line 5-15); and, in response to the overload condition, selectively denying some only of the control requests depending on the class of service applied to the control requests.(col. 5, line 24-26).

applying different classes of service to control requests depending on the transaction requested by the control request. (Figs. 7A and 7B, col. 5, line 29-32, col. 19, line 4-21, col. 18, line 54-62, col. 9, line 4-21).

**Referring to claim 38,**

Obhan teaches a method as in claim 32 further comprising: receiving via the control interface of the message platform control requests instructing a transaction on the messaging platform (col. 19, line 4-21), wherein the step of limiting loading of the platform includes denying at least some of the control requests received via the control interface access to the platform (col. 18, line 54-62).

applying different classes of service to the control requests (Figs. 7A and 7B, col. 5, line 5-15); and, in response to the overload condition, selectively denying some only of the control requests depending on the class of service applied to the control requests.(col. 5, line 24-26).

applying different classes of service to control requests depending on the transaction requested by the control request. (Figs. 7A and 7B, col. 5, line 29-32, col. 19, line 4-21, col. 18, line 54-62, col. 9, line 4-21).

wherein the messaging platform includes: a plurality of mailboxes containing message data, each mailbox being switchable between an open state, in which message data may be written to or read from the mailbox, and a closed state, and in which the step of limiting loading includes allowing requests for the closing of a mailbox and denying requests for the opening of a mailbox. ((Figs. 7A and 7B, col. 5, line 29-32, col. 19, line 4-21, col. 18, line 54-62, col. 9, line 4-21).

### ***Conclusion***

**Examiner's note:** Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashok B. Patel whose telephone number is (571) 272-3972. The examiner can normally be reached on 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A. Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Abp  
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